

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rutherford & Plaza Blanca

NOTICE AND ORDER TO SHOW CAUSE

TO ALL CLAIMANTS, KNOWN AND UNKNOWN, WHO CLAIM A RIGHT TO USE THE SURFACE OR UNDERGROUND WATERS OF THE RUTHERON & PLAZA BLANCA SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM

AND TO ALL OF THE FOLLOWING WHO CLAIM A RIGHT TO USE SURFACE WATER FOR IRRIGATION PURPOSES IN THE RUTHERON & PLAZA SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM AND WHOSE NAMES APPEAR BELOW:

PLAZA BLANCA DITCH

PRIORITY 1861

Defendants: Cruz Aguilar, Gregorita Aguilar, James R. Brooks, Mary Alice Casados, Russell Casados Jr., Ian W. Chamberlain, Sarah E. Chamberlain, Debra Dillaway, Joseph M. Herrera, Julian J. Herrera, Patrick J. Herrera, Norbert C. Lopez, Ben and Lucy Maestas Trust, Cecilia A. Magallanes, Hector M. Magallanes, Maria C. Manzanares, Mariano Manzanares, Mary Leah Manzanares, Natividad Manzanares, Ruben Manzanares Jr., Simon Carlos Manzanares, Della M. Martinez, Tony H. Martinez, Virginio R. Martinez, Martinez Trust, Antonia Mercure, Jose De La Luz Mercure, Joyce Nenninger, David Pike, Elizabeth Saiz, Bernardo J. Serrano, Donald L. Serrano, Doris J. Serrano, Juliann J. Serrano, Kathy R. Tafoya, Lisa Tafoya, Lorraine Tafoya, Pedro & Rose Torrez Trust, Estate of Jose Vidal Ulibarri, Frank S. Ulibarri, Louisa Ulibarri, Octaviano R. Ulibarri, Pedro A. Ulibarri Jr., Roberto Ulibarri, Udilia Ulibarri, Johnny Valdez, Rosita L. Valdez, Rutherford Mutual Domestic Water Consumers Association

TRUJILLO DITCH**PRIORITY 1877****Defendants:** Unser LLC**WILLOW CREEK MESA DITCH****PRIORITY December 4, 1922**

Defendants: Cruz Aguilar, Gregorita Aguilar, Dianna Andrews, Timothy Andrews, Andrew S. Aragon, Dora L. Aragon, Abel Armijo, Diana Armijo, Olga Arreguin, Robert Arreguin, David C. Beach, Florence C. Beach, Samuel R. Beach, Charles R. & Leatrice H. Beach Trust, Marshall J. & Dorothy T. Blanton Trust, Bruce & Mary Caird Trust, Tony Cardenas, Gene M. Christiansen, Bethany S. Cope, Tina Cordova, Edward Cowan, Jack Cowan, Calvin Curt, Cary Daugherty, Craig Daugherty, Jerroll L. Devers, Sharon Devers, George Elliott, Karen Elliott, Barbara C. Fernandez, Miguel M. Fernandez, Desi Garcia, Yvonne Garcia, Kenneth L. Groves, Claudia Hernandez, Tommy Hernandez, William Horn, William Horn & Associates, The Katchina Trust, Kryan B. Kemper, Trudy M. Kemper, Hershel P. Kuykendall, Kathryn E. Mac Andrew, Paul R. Mac Andrew, Natividad Manzanares, Arthur M. Marquez, Ruby H. Marquez, Birgit Mcgaughey, Patrick L. Mcgaughey, William N. Melton, Elipio G. Mercure, Hope Miner, Morrison Revocable Trust, Steve A. Padilla, Louise W. Pape, William R. Pape, Alfred Q. Peralta, Elizabeth T. Peralta, Joseph J. Piuma, Rancho Lobo Ltd., Ross Family Trust, Sandra Sableman, Frank S. Ulibarri, Janelle Ulibarri, Marla C. Ulibarri, Mike Ulibarri, Richard P. Ulibarri, Christina Miller Veveris, Juris L. Veveris, Norm Vogt Inc., Norm Vogt, Nancy Ann Walker, Raymond Walker

The priority date of December 4, 1922 will apply to all lands irrigated by the Willow Creek Mesa Ditch with the exception of the lands in the subdivisions described below.

WILLOW CREEK MESA DITCH**PRIORITY February 2, 1926**

The priority date of February 2, 1926 will apply to the lands irrigated by the Willow Creek Mesa Ditch in the subdivisions described below. A map showing the location of these tracts is available for inspection at the Office of the State Engineer in Santa Fe.

<u>Subfile No.</u>	<u>Subdivision</u>	<u>Acres</u>
CHRU-002-0001	Sec. 34, T2S, R2E	
	NE1/4 SE1/4	10.20
	SE1/4 SE1/4	1.05
	SW1/4 SE1/4	0.67
	Sec. 35, T2S, R2E	
	NW1/4 NW1/4	3.32
	NE1/4 NW1/4	6.14
	NW1/4 NE1/4	8.62

	SW1/4 NE1/4	22.54
	SE1/4 NE 1/4	0.03
	NW1/4 SE1/4	6.41
	SW1/4 SW1/4	15.73
	SE1/4 SW1/4	21.26
	Sec. 2, T3S, R2E	
	NW1/4 NW1/4	7.49
CHRU-001-0003	Sec. 36, T2S, R2E	
	SW1/4 NW1/4	0.70
CHRU-003-0006	Sec. 1, T3S, R2E	
	SE1/4 NW1/4	13.99
CHRU-004-0042	Sec. 11, T3S, R2E	
	SW1/4 NE1/4	0.86
CHRU-004-0043	Sec. 11, T3S, R2E	
	SW1/4 NE1/4	1.35
	SE1/4 NW1/4	1.12

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	OSE Permit	PRIORITY DATE
CHRU-004-0050A (Unser LLC)	No. 1545 & 1699 into 4888 & 4889	December 4, 1922

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority dates for any other community or private ditch in the Rutherford & Plaza Blanca Subsection of Section 7 of the Rio Chama Stream System ("Rutherford & Plaza Blanca Subsection") as described above. The priority dates for the ditches listed above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described on individual subfile orders filed with the Court. Defendants that have previously agreed to a priority date for their water rights in the Rutherford & Plaza Blanca Subsection in subfile orders filed with the Court may not object to the dates of their own water rights, but may file objections to the proposed determination of the priority dates of other water users.

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation

water requirements for surface water irrigation use in the Rutherford & Plaza Blanca Subsection for lands irrigated under pre-1907 ditches as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.70 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.50 acre-feet per acre per annum.

The ditches in the Rutherford & Plaza Blanca Subsection to which the above amounts apply are all of the ditches identified above with the exception of the Willow Creek Mesa Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Rutherford & Plaza Blanca Subsection that are irrigated under final licenses issued by the Office of the State Engineer, or irrigated under an approved permit for the transfer of water rights, as described below:

Willow Creek Mesa Ditch (OSE No. 1545 & 1699):

- a. The weighted consumptive irrigation requirement (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	<u>OSE Permit</u>	<u>AMOUNT OF WATER</u>
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CHRU-004-0050A	No. 1545 & 1699 into 4888 & 4889	23.67 acre-feet per annum consumptive use 40.35 acre-feet per annum diversion amount
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The term "Consumptive Irrigation Requirement" ("CIR") refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term "Farm Delivery Requirement" ("FDR") refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The "Project Diversion Requirement" ("PDR") or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy

the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stock ponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons you may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights for surface water irrigation use in the Rutherford & Plaza Blanca Subsection as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Rutherford & Plaza Blanca Subsection. Subsequent *inter se* proceedings in the Rutherford & Plaza Blanca Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Rutherford & Plaza Blanca Subsection as stated above, you must file your objection with the Court, in person or by mail, **FOR RECEIPT NO LATER THAN June 1, 2012:**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Court will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

or,

John W. Utton

Attorney for Asociación de Acéquias Norteñas de Rio Arriba
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile

BRUCE D. BLACK
CHIEF UNITED STATES DISTRICT JUDGE

Approved:

LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE